THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27243 of 1997

Dated:07.3.2007

Between
G.Penta Bai

.....Petitioner

and

1. AP State Road Transport Corporation rep., by its Managing Director, Mushirabad, Hyderabad
And others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27243 of 1997

ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the respondents in not considering the case of the petitioner for appointment under compassionate grounds under the 'Bread Winner Scheme' as arbitrary and illegal.

It appears that the husband of the petitioner G.Nagabhushanam joined the services of the respondent-Corporation as a driver with effect from 1.7.1980. While so, he was removed from service as a measure of disciplinary proceedings by an order dated 18.2.1988. Therefore, the husband of the petitioner raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court-I

Hyderabad in ID No.338 of 1993. However, during pendency of the said ID, the husband of the petitioner died. The Labour Court, after an elaborate consideration of the material placed before it, disposed of the said ID on 04.12.1995 setting aside the removal order passed by the respondents on 18.2.1988, and directed the respondents to treat the period from the date of removal till date of his death i.e., 18.2.1988 to 18.5.1991 as continuous service and to pay 50% of the back wages to the legal heirs of the workman with all attendant benefits.

According to the petitioner, the award passed by the Labour Court has attained finality. During pendency of the said ID, the husband of the petitioner died, hence she filed an application seeking employment under the 'Bread Winner Scheme', but the same was not considered by the respondents. Therefore, she filed the present writ petition.

In fact, while admitting the writ petition on

22.10.1997, the respondents were directed to consider the case of the petitioner for appointment to the post of Sweeper or any other suitable post under compassionate grounds, during pendency of the writ petition.

According to the petitioner, the said order was not given effect to till date. Though counter is filed by the respondents, there is no whisper as to whether the case of the petitioner was considered or rejected. On the other hand, it is asserted in the counter that the husband of the petitioner did not die in harness. Therefore, she is not entitled for consideration for compassionate appointment under the 'Bread Winner Scheme'. It is unfortunate that such a stand is taken by the respondents. Para 12 of the award made by the Labour Court in the said ID reads as under:

> "In the result, the order of removal passed by the respondent dated 18.2.1988 against the 1st petitioner is set aside and since the 1st petitioner died on 18.5.1991, the question of reinstatement

> does not arise and the respondent is further directed to treat the period of the 1st petitioner from the date of his suspension till the date of his death 18.5.1991 as continuous service and pay 50% of the back wages due to the 1st petitioner to his legal heirs petitioners 2 to 4 and pay other attendant benefits for this period. The respondent is directed to implement the award within 30 days from the date of publication of the Award as prescribed. Award is accordingly passed."

From the above, it must be deemed that late husband of the petitioner was in service till his death i.e., 18.5.1991 and died in harness. The said Award passed by the Labour Court attained finality.

Under those circumstances, the respondents are directed to consider the case of the petitioner for compassionate appointment to the post of sweeper or any other suitable post to which she is eligible under the 'Bread Winner Scheme', within a period of eight weeks from the date of receipt of a copy of this order. Any delay caused will

be viewed seriously as the respondents have not adhered to the interim passed on 22.10.1997.

Writ petition is disposed of accordingly. No costs.

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7-3-2007

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